

Application No. 10/796,219

Amendment dated February 15, 2006

Reply to Final Office Action of November 15, 2005

### REMARKS

Upon entry of this amendment, claims 1-10, 13-22, and 24-29 are pending. **The Office has indicated that claims 1-8, 13 and 14 are allowed.** Claim 23 has been cancelled.

Claims 9, 10, 15, 22, 24, 26, and 27 have been amended. Support for the amendments to claims 9, 10, 15, 22, and 24 can be found at least at ¶ 0067 – ¶ 0072. Amendments to claims 9, 22, 26, and 27 consisting of the additions of "(i)" and "(ii)" are meant to amplify the originally intended relationship between the components of the two-color molding article. Claims 26 and 27 have been amended to reflect that the requirement of 5-80% mass ... etc. now appears in claim 24. No new matter has been added.

### **Rejections under 35 U.S.C. § 103(a)**

#### US Pub. No. 2004/0161690 in view of US Pat. No. 5,859,071

Claims 9-10 and 15-29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2004/0161690 to Sakurai et al. ("Sakurai"), further in view of U.S. Patent No. 5,859,071 to Young ("Young"). Applicant respectfully traverses and requests reconsideration and withdrawal of this rejection.

Applicant again<sup>1</sup> respectfully submits that **U.S. Publication No. 2004/0161690 A1 to Sakurai et al. is not prior art.** Applicant's earliest effective filing date is March 12, 2003 which is before the earliest filing date of the reference for 102/103 purposes which is the U.S. filing date of September 25, 2003. Applicant therefore respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a) as it applies to this reference.

Turning now to the other cited reference, to establish a *prima facie* case of obviousness, (i) the prior art reference (or references when combined) must teach or suggest all the claim limitations; (ii) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; and (iii) there must be a reasonable expectation of success. MPEP § 2143.

**Young does not teach or disclose all required elements of claim 9.** Young is directed to a polymeric blend formed from recycled carpet scrap. Young contains no teaching or suggestion to provide a casing material for recording media composed of an alloy of polyethylene terephthalate and a polyacrylonitrile-butadiene-styrene copolymer, as required by claim 9. Also, Young contains no teaching or suggestion of the relative amounts of polyethylene terephthalate and polyacrylonitrile-butadiene-styrene in an alloy as required by claim 9.

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<sup>1</sup> Applicant first made the Office aware that US Pub. No. 2004/0161690 A1 to Sakurai was not prior art in the Response to Office Action dated Sept. 8, 2005.

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Further, the Office provides **no suggestion or motivation to modify the teachings of Young**. There is also **no reasonable expectation of success** provided by the Office in achieving the invention as claimed when Young is modified or combined with the general knowledge of the art alluded to by the Office. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art and not based on Applicant's disclosure as has been done in the Office Action. Finally, the references, even combined, do not teach or suggest all of Applicant's claim limitations. Unless all the elements are taught by the references, there can be no success in modifying them.

The above arguments apply equally to independent claims 10, 15, 22, and 24, to the extent they specify a casing material of alloy and relative amounts of polyethylene terephthalate and polyacrylonitrile-butadiene-styrene in the alloy. This argument also applies equally to claims ultimately dependent from claims 9, 10, 15, 22, or 24, such as claims 11, 12, 16, 17, 18, 19, 20, 21, 25, 26, 27, 28, and 29.

Lastly, it was indicated that the Office understood the argument that the composition of the reference does not contain the specific limitations, *i.e.* 20%-70% by mass in the total amount ... etc., but that the argument was not sufficient because the claims, as previously written, were not limited in this way. Applicants have amended the claims to require the aforementioned 20%-70%. As such, Applicants respectfully submit that these amendments to the claims render the Examiner's objections moot and request the Examiner to reconsider the rejections.

U.S. Pub. No. 2004/0137321

Claims 9 - 10 and 15-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication 2004/0137321 to Savaria ("Savaria"). Applicant respectfully traverses and requests reconsideration and withdrawal of this rejection.

**Savaria does not teach all required elements of claim 9.** Savaria is directed to a casing for an energy storage device such as a battery. The casing of Savaria contains a structural shell made of reinforced polymer material (that can consist of combinations of polyethylene terephthalate polyamide and acrylonitrile butadiene styrene). But Savaria does not teach or disclose the *relative content of the components* of the plastic alloy. Specifically, Savaria does not teach or disclose an alloy with 5 to 80% by mass of recovery polyethylene terephthalate, as required by claim 9. Neither does Savaria teach or disclose an alloy with the content of acrylonitrile-butadiene-styrene resin being in the range of 20 to 70% by mass, as required by claim 9.

Because Savaria does not teach all required elements of claim 9, this claim is not obvious in light of Savaria. This argument applies equally to independent claims 10, 15, 22, and 24, to the extent they specify the relative content of acrylonitrile-butadiene-styrene resin and polyethylene terephthalate in the alloy of the claims. This argument also applies equally to claims ultimately dependent from claims 9, 10, 15, 22, or 24, such as claims 11, 12, 16, 17, 18, 19, 20, 21, 25, 26, 27, 28, and 29.

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Furthermore, the Office has presented **no suggestion or motivation to modify** the case of Savaria to arrive at the requirements of claims 9-10 and 15-29. Also, the Office has failed to provide a basis for a **reasonable expectation of success** in modifying the battery case of Savaria so as to arrive at the requirements of the recording media case and materials of claims 9-10 and 15-29. So for these reasons also, claims 9-10 and 15-29 are not obvious in light of Savaria.

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CONCLUSION

As a result, Applicants respectfully request withdrawal of the rejections and believe that the claims as presented represent allowable subject matter. If the Examiner desires, Applicants welcomes a telephone interview to expedite prosecution. As always, the Examiner is free to call the undersigned at the telephone number below. Applicant believes there is no fee due at this time. However, the Commissioner is hereby authorized to deduct any deficiency or credit any overpayment to Deposit Account No. 19-3140.

Respectfully submitted,

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